

Executive Branch Ethics Commission
ADVISORY OPINION 08-31
November 14, 2008

RE: May Social Worker accept a shower and baby gifts from foster care families who are part of her caseload.

DECISION: No.

This opinion is issued in response to your October 29, 2008 request for an exception to KRS 11A.045(1) from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 14, 2008 meeting of the Commission and the following opinion is issued.

You provide the relevant facts as follows:

You are a Social Worker employed by the Department for Community Based Services with the Cabinet for Health and Family Services. You are expecting your first child in several months and the foster parents that comprise your current caseload have expressed a desire to give you a baby shower. Specifically, a mother/daughter foster parent duo plan on spearheading the shower and inviting the other foster parents and a few other people associated with the Department in which you work. Your parents are providing the facility while the foster parents are providing the food, drink and decorations. No agency funds would be expended for the shower; however, we were subsequently advised that the shower would be held at the Cabinet's local office and that it was scheduled for November 15, 2008.

Any foster parent on your current caseload is invited to attend, however, participation is voluntary and a gift is not required for attendance. All invited guests would be informed not to spend more than \$25 on the baby gift which is the maximum gift amount allowed under KRS 11A.045(1).

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety. (**Emphasis added**).

The Commission has previously allowed exemptions to KRS 11A.045(1) where the gifts were reasonable in value (valued at \$25 or less) and the recipient would be required to report the gift on his statement of financial disclosure. The reporting requirement lessens any appearance of impropriety that may be created by receiving a gift from someone seeking to influence the actions of a public official. See Exemptions 2005-1, 2001-1, 2000-2. The Commission has also allowed exemptions to the gift statute where a public servant or a member of his family has suffered extreme trauma or a life altering event. See Exemptions 2007-01, 2005-4. The Commission believes that such extreme circumstances are the reason the exemption language was put into the statute.

In this situation such extreme facts are not present. Nor is the individual in question a “public official” who is required to report such gifts on a statement of financial disclosure. Accordingly, the request for an exemption is denied. Moreover, the Commission does not believe it would be appropriate to conduct the shower on state property.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

By Chair: Gwen R. Pinson

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